

could not be made, other approaches have been used, depending on the particular grammatical situation presented.

Applicant is surprised by the Examiner's concentration on what appears to be minor formal matters. The Examiner is respectfully reminded that it is Patent Office policy to not place undue emphasis on "technical" rejections. At M.P.E.P. 706.03 the Examiner is instructed as follows:

The primary object of the examination of an application is to determine whether or not the claims define a patentable advance over the prior art. This consideration should not be relegated to a secondary position while undue emphasis is given to non-prior art or "technical" rejections. Effort in examining should be concentrated on truly essential matters, minimizing or eliminating effort on technical rejections which are not really critical.

In order to avoid further §112 rejections, applicant has carefully reviewed the pending claims to ensure the proper article "a" or "an" precedes the first use of a noun or gerund in all situations. Hopefully, this is responsive to the implication that more §112 problems exist, arising from the statement in the Office Action that the list of §112 problems is only "partial."

In addition to the long list of nouns and gerunds that lacked proper antecedent basis, claims 52, 73, 90, 96 and 100 have been identified as containing particular §112 problems. Regarding claims 52, 90, 96 and 100, amendments have been made which applicant believes overcome the formal objections upon which the §112 rejections are based. Claim 73 has not been amended since it is believed that the phrase "to ensure a known surface area of contact" is not vague and indefinite when read in light of the specification. Page 25 of the specification and Fig. 6 of the drawings disclose a contact plate 60. The contact plate provides the contact interface between the tubings 47 and the truck body. Referring to Fig. 6, because the tubings 47 compress in response to additional weight, they

responsive to first and second weighing devices for providing the fractions of the total weight supported over the front and rear axles as claimed in claims 63, 65 and 69. As for the Hartman patent, it is directed to a weighing device for a pivotal dump body wherein strain gauges are incorporated into hinge pins. As with the Lindstrom et al. patent, there is absolutely no suggestion of a processor responsive to first and second weighing devices for providing the fractions of the total weight that are supported over the front and rear axles of the truck. Finally, the Andersson et al. patent discloses the placement of strain gauges in the axle of a load-carrying vehicle for the purpose of measuring axial loads. The patent is directed to the particular placement of the strain gauges that compensates for errors in load measurements due to breaking-generated torque. Unlike applicant's claimed invention, the strain gauges in the Andersson et al. patent directly measure the torque in each axle. As with the other two prior art patents, Andersson et al. contains absolutely no suggestion of a processor responsive to first and second weighing devices for providing an indication of the fractions of the truck's weight supported over the front and rear axles.

The combination of Lindstrom et al., Hartman and Andersson et al. also lack any teaching, whether considered alone or in combination, of a means for coupling the body to the frame that inhibits side-to-side or fore-to-aft movement while allowing limited vertical movement. There is simply no disclosure of any structure that provides or suggests this function. Therefore, applicant cannot understand the Examiner's rejection of claims 87-89 based on any combination of Lindstrom et al., Hartman and Andersson et al. In order to ensure that the phrase "limited vertical movement" is not interpreted as including pivoting of the truck body, claim 87 has been amended to state "limited non-rotating vertical movement."

If the foregoing rejection of claims 63, 65, 69 and 87-94 is repeated, applicant respectfully requests that the Examiner

specifically point out those portions of the cited references that teach or suggest the processor of claim 63 and the coupling means of claim 87. As for the third set of claims rejected in paragraph 18 of the Office Action, claims 90-94 have been cancelled and therefore a discussion of the rejection is not necessary.

In paragraph 19 of the Office Action, claims 95-98 have been rejected under 35 U.S.C. §103 as being obvious in view of the Lindstrom et al. patent taken with the Hartman and Andersson et al. patents and the Coal Age magazine article. As indicated in response to the first Office Action, to the extent the Coal Age article reflects a system actually built and tested in 1979, applicant will address the article as prior art. However, applicant reserves the right to antedate the article itself either by way of a Rule 131 affidavit or by way of establishing priority under 35 U.S.C. §120.

As also indicated in the response to the first Office Action, the Coal Age article discloses a computer dispatching system for a fleet of vehicles that requires a vehicle operator to manually enter information into an on-board computer when the vehicle arrives at a location and begins to load or dump. Even though weighing devices in general are well known, there is no suggestion of providing the vehicles of the Coal Age article with load-weighing devices for automatically providing the on-board computer with an indication of when loading or dumping operations begin. Yet, claims 95-98 as amended recite this automatic weighing and detection of load and dump operations as an express limitation.

Although the Lindstrom et al., Hartman and Andersson et al. patents disclose weighing devices of several different types, none of the patents suggest that the weight data obtained from these weighing devices may be automatically transferred to a remote stationary site as claimed. Furthermore, the Coal Age article is directed to a dispatching system for controlling the routing of a fleet of heavy duty, off-road

trucks. This dispatching system does not utilize any sort of weighing device. In order to provide a remote control computer with load and dump data, a driver must manually punch a key to download the appropriate data to the control computer. There is no suggestion in any of the cited patents that a weighing device could be used to automate the dispatch system of the Coal Age article. It is respectfully submitted that such a suggestion is a prerequisite to any combination of references that could reasonably be viewed to render claims 95-98 obvious.

Exactly what use the weighing devices of Lindstrom et al., Hartman or Andersson et al. would have in the environment of the Coal Age dispatch system is unclear to applicant. Even assuming the combination of the dispatch system in the Coal Age article and the weighing devices of Lindstrom et al., Hartman and Andersson et al. can properly be made, there is still a lack of any suggestion for downloading the weight data to a remote cite as expressly claimed in claims 95-98. The Coal Age article is directed to the routing of vehicles based on the timing of events (e.g. loading, dumping). Knowing the weight of the material carried by a particular truck does not compliment the dispatch system in the Coal Age article. However, applicant has realized that as a derivative of knowing the weight of the material carried by the trucks, the loading and dumping events can be detected and the dispatch system automated. There is clearly no appreciation of this fact from any of the cited prior art references.

Furthermore, claims 95-98 recite a particular pressure sensor assembly for providing weight data. As claimed, the pressure sensor assembly is positioned along an interface between the truck body and frame. Neither the Lindstrom et al., Hartman nor Andersson et al. patent discloses such structure. Also, the Andersson et al. and Hartman patents disclose strain gauge devices only, whereas claims 95-98 expressly call for a pressure sensor assembly. In summary, the combination of the four patents in paragraph 19 of the Office

Action when fairly read do not suggest the structure of claims 95-98, and they specifically do not suggest downloading of weight data to a remote site.

Turning to the rejection of claim 99 in paragraph 20 of the Office Action, the Merriman et al. patent is cited for its disclosure of an end clamp for sealing a flexible wall tube. Claim 99 was also rejected in the first Office Action over the Merriman et al. patent. As indicated in the response to that first Office Action, applicant's claimed clamp includes a collar that is proximate to opposing end plates that are bolted together to seal the tubing 47 closed. There is no disclosure or suggestion of such a collar in Merriman et al. In this second Office Action, the Examiner has taken the position that it is well known in the art to seal a tubing "using infinite combinations of embodiments" and the Merriman et al. patent is simply one example of these well-known devices. From this bold assertion, the Office Action concludes that claim 99 is not patentable. Applicant must protest the form of this rejection. There is simply no support for the position that it is well known in the art to seal a tubing "using infinite combinations of embodiments." If in fact such a statement is true, the Examiner should be able to cite a reference in support of it. Otherwise, applicant respectfully submits that the whole premise of the rejection for claim 99 is improper and cannot stand. If the structure of claim 99 is not found in or suggested by the Merriman et al. patent, then applicant submits that claim 99 must be patentable over the reference. If the Examiner does not deem the structural limitations of claim 99 patentable, then it is the Examiner's responsibility to find a reference that renders the claim nonpatentable under §§102 or 103 within the proper parameters as set forth in Graham v. John Deere Co., 383 U.S. 1, 148 U.S.P.Q. 459 (1966).

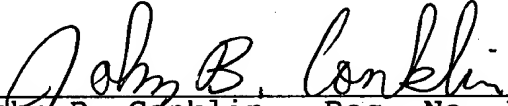
Finally, applicant is submitting with this response a Supplemental Information Disclosure Statement that includes prior art cited in a related case and copies of the non-patent

literature listed in but apparently not included with a previous Information Disclosure Statement.

In view of the foregoing amendments to the claims intended to overcome §112 objections made by the Examiner and in view of the foregoing remarks directed to the substantive rejections of selected ones of applicant's claims, the application is now believed to be in condition for allowance. In this connection, applicant notes that the majority of the pending claims were not rejected on prior art. Since these same claims were rejected over prior art in the first Office Action, applicant must assume that once the §112 objections are overcome, these claims will be indicated as allowable. Favorable reconsideration of the application is respectfully requested.

Signed at Chicago, in the County of Cook and State of Illinois this 20 day of November, 1987.

Respectfully submitted,

  
John B. Conklin - Reg. No. 30,369  
Leydig, Voit & Mayer  
One IBM Plaza - Suite 4600  
Chicago, IL 60611  
(312) 822-9666